

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
HELENA DIVISION

NEAL LEWIS GRAY,

Plaintiff,

vs.

DAVID HARRIS and C/O HARDING,

Defendants.

CV 17-83-H-BMM-JTJ

ORDER

United States Magistrate Judge John Johnston entered his Findings and Recommendations in this case on November 7, 2019 (Doc. 78.) Judge Johnston denied Plaintiff Neal Lewis Gray's ("Gray") Motion for Addium (Doc. 58), Motion for Pre-Trial Order (Doc. 59), and Motion for Addendum (Doc. 74). Judge Johnston recommended that Defendant Harding's ("Harding") Second Motion for Summary Judgment based on Failure to Exhaust (Doc. 60) and Non-Procedural Motion for Summary Judgment (Doc. 64) be granted. He also recommended that Gray's Brief in Support of a Summary Judgment in Favor of Plaintiff (Doc. 76) be denied.

Neither party filed objections to the Findings and Recommendations. The parties have thus waived the right to de novo review. 28 U.S.C. § 636(b)(1)(C).

Absent objection, this Court reviews findings and recommendations for clear error. *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003) (en banc); *Thomas v. Arn*, 474 U.S. 140, 149 (1985). Clear error exists if the Court is left with a “definite and firm conviction that a mistake has been committed.” *United States v. Syrax*, 235 F.3d 422, 427 (9th Cir. 2000) (citations omitted). Reviewing for clear error and finding none,

IT IS ORDERED that Judge Johnston’s Findings and Recommendations (Doc. 78) are **ADOPTED IN FULL**.

For the reasons set forth in Judge Johnston’s recommendations:

- Defendant Harding’s Second Motion for Summary Judgment based on Failure to Exhaust (Doc. 60) is **GRANTED**;
- Defendant Harding’s Non-Procedural Motion for Summary Judgment (Doc. 64) is **GRANTED**.
- Plaintiff Gray’s Brief in Support of a Summary Judgment in Favor of Plaintiff (Doc. 76) is **DENIED**.
- The Clerk of Court is directed to close this matter and enter judgment in favor of Defendants under Rule 58 of the Federal Rules of Civil Procedure.

DATED this 16th day of December, 2019.

A handwritten signature in blue ink, reading "Brian Morris". The signature is written in a cursive style with a horizontal line extending from the end of the name.

Brian Morris
United States District Court Judge